

## REMARKS / ARGUMENTS

### Summary of Amendments

Claims 32-39, directed to certain compositions formed by a recited process, are cancelled without prejudice. This obviates the Examiner's objection of Claims 32-39, as well as the rejection of those Claims as being anticipated under 35 U.S.C. § 102. (Applicants note that at section 8 of the present Action, the Examiner initially refers to Claims 2-7 as being drawn to product-by-process claims, which the Examiner objects to. At section 9, however, the Examiner refers to Claims 32-39 as being treated as compound claims for the purposes of examination. Applicants assume the initial reference to Claims 2-7, which were cancelled by virtue of the Preliminary Amendment filed May 8, 2000, was in error. Confirmation is requested.)

Applicants have amended Claims 11, 14, 15, 23 and 24 to indicate temperatures in degrees Celsius instead of degrees Fahrenheit.

Applicants have added new Claims 40-47, directed to preferred processes. More specifically, Claim 40 is similar to claim 11, but specifies that the water wash is performed at a temperature of from about 60°C to about 93°C. Support for this temperature range is found at p. 8, lines 26-27. Support for Claims 41-46 is found in the specification and the claims as originally filed. Support for the water wash temperature range set forth in Claim 47 (about 77°C to about 93°C) is found at p. 8, line 27.

No new matter is presented by these amendments.

### The Rejection under 35 U.S.C. § 112, Second Paragraph

The Examiner rejects Claims 11-39 under 35 U.S.C. § 112(2) as being indefinite. Specifically, the Examiner contends that the use of "high purity" in the claims is indefinite, as "[t]here is no indication or range given to determine what is renders [sic] the fatty acid ester as being high in purity."

Applicants respectfully submit that when the claims are properly interpreted in view of the specification's teachings, the pending claims are sufficiently definite. At page 5, last paragraph, the specification provides that "[a]s used herein, the term 'high purity' is intended to mean the level of fatty acid lower alkyl esters is at least about 85%, by weight..." Clearly, this reasonably apprises one of ordinary skill in the art as to what activities would constitute infringement of the claims. Applicants request withdrawal of the rejection.

### The Rejection under 35 U.S.C. § 103(a)

The Examiner rejects Claims 11-13, 17-18, 20 and 32 under 35 U.S.C. § 103) as being obvious over European Patent Application 391,485 by Klok et al. (hereafter "Klok").

In a prior Action dated January 15, 2002, the Examiner rejected all pending claims as being anticipated by Klok. In the present Action, the Examiner recognizes that Klok does not anticipate these claims, stating that "[t]he claims differ from the reference by stating that the washing step is conducted at elevated pressure."

However, the Examiner rejects these claims as being obvious over Klok, stating at page 3 of the Action that "it would have been obvious to one of ordinary skill in the art to modify the pressure of the washing step because it is taught on page 3, col. 3, lines 44-49 that the reaction conditions can be atmospheric as well as sub- or super atmospheric. Also, it should be noted that the entire process is conducted under pressure in closed systems there [sic] one can extrapolate that washing step is conducted under elevated pressure also."

Applicants respectfully submit that the portion of Klok referenced by the Examiner does not describe the washing step. Instead, these conditions concern the first esterification reaction between the starting fatty acid glycerol esters and the lower-alkylalcohol. When discussing washing, at page 5 Klok states "[t]he catalyst and soap components can be suitably removed by conventional water washing and filtration steps..." There is no suggestion that the elevated pressure conditions of Applicants' claims should be utilized. Thus, Applicants submit that Klok in no way teaches the claim element of elevated pressures, per Claim 11 (and dependent Claims 12-23). As such, the Examiner has not established a *prima facie* case of obviousness.

With respect to independent Claims 24, 28 and 31, the Examiner has not rejected these Claims under Section 103. As such, upon withdrawal of the Section 112, second paragraph, rejection, these claims (and dependent claims 25-27 and 29-30) are believed to allowable.

Applicants have presented new Claims 40-47. As mentioned, independent Claim 40 specifies that in addition to conducting the water washing step at elevated pressures, that step is carried out at a temperature of from about 60°C to about 93°C. Klok in no way teaches conducting the water washing step at such high temperatures. Applicants therefore submit that Claims 40-47 are patentable over Klok.

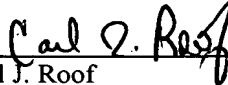
#### CONCLUSION

Applicants respectfully request withdrawal of the rejections under 35 U.S.C. §§ 102 (b), 103(a) and 112(2). If the Examiner believes that personal contact would be advantageous to the disposition of this case, the Examiner is respectfully requested to contact the undersigned.

Application Serial No. 09/554,211  
Response to Office Action dated 6/3/2004  
Response dated 08/30/2004  
P&G Case 6934

10

Respectfully submitted,

  
\_\_\_\_\_  
Carl J. Roof  
Attorney for Applicants  
Registration No. 37,708  
(513) 634-5209

Date: August 30, 2004  
Customer No. 27752